

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

May 3, 2021

1:33 p.m.

MEMBERS PRESENT

Senator Roger Holland, Chair
Senator Robert Myers
Senator Jesse Kiehl
Senator Shelley Hughes

MEMBERS ABSENT

Senator Mike Shower, Vice Chair

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 7

Proposing amendments to the Constitution of the State of Alaska relating to prohibiting the establishment of a state tax without the approval of the voters of the state; and relating to the initiative process.

- HEARD & HELD

SENATE JOINT RESOLUTION NO. 5

Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit; and relating to the budget reserve fund.

- HEARD & HELD

SENATE JOINT RESOLUTION NO. 6

Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund, appropriations from the permanent fund, and the permanent fund dividend.

POSTPONED TO 5/7/21

PREVIOUS COMMITTEE ACTION

BILL: SJR 7

SHORT TITLE: CONST. AM: STATE TAX; VOTER APPROVAL

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/22/21	(S)	READ THE FIRST TIME - REFERRALS
01/22/21	(S)	STA, JUD, FIN
02/04/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/04/21	(S)	Heard & Held
02/04/21	(S)	MINUTE(STA)
02/11/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/11/21	(S)	Scheduled but Not Heard
02/23/21	(S)	STA AT 3:30 PM BUTROVICH 205
02/23/21	(S)	Moved SJR 7 Out of Committee
02/23/21	(S)	MINUTE(STA)
02/24/21	(S)	STA RPT 1DP 3NR
02/24/21	(S)	DP: SHOWER
02/24/21	(S)	NR: HOLLAND, KAWASAKI, COSTELLO
04/28/21	(S)	JUD AT 1:30 PM BUTROVICH 205
04/28/21	(S)	-- MEETING CANCELED --
04/30/21	(S)	JUD AT 1:30 PM BUTROVICH 205
04/30/21	(S)	Heard & Held
04/30/21	(S)	MINUTE(JUD)
05/03/21	(S)	JUD AT 1:30 PM BUTROVICH 205

BILL: SJR 5

SHORT TITLE: CONST. AM: APPROP LIMIT; BUDGET RESERVE

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

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02/23/21	(S)	MINUTE(STA)
02/24/21	(S)	STA RPT 1DP 2NR 1AM
02/24/21	(S)	DP: HOLLAND
02/24/21	(S)	NR: SHOWER, COSTELLO
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04/30/21	(S)	Heard & Held
04/30/21	(S)	MINUTE(JUD)
05/03/21	(S)	JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

MIKE BARNHILL, Deputy Commissioner
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Answered questions on SJR 7 on behalf of the administration.

WILLIAM MILKS, Senior Assistant Attorney General
Legislation & Regulations Section
Civil Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions related to taxes during the hearing on SJR 7.

NEIL STEININGER, Director
Office of Management & Budget
Office of the Governor
Juneau, Alaska

POSITION STATEMENT: Answered questions on SJR 7 on behalf of the administration.

CAROLINE SCHULTZ, Policy Analyst
Office of Management & Budget
Office of the Governor
Juneau, Alaska

POSITION STATEMENT: Answered questions on SJR 7 on behalf of the administration.

WILLIAM MILKS, Senior Assistant Attorney General
Legislation & Regulations Section
Civil Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered legal questions during the hearing on SJR 5.

ACTION NARRATIVE

1:33:08 PM

CHAIR ROGER HOLLAND called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Myers, Kiehl, and Chair Holland. Senator Hughes arrived shortly thereafter.

SJR 7-CONST. AM: STATE TAX; VOTER APPROVAL

[1:33:42 PM](#)

CHAIR HOLLAND announced the consideration of SENATE JOINT RESOLUTION NO. 7, Proposing amendments to the Constitution of the State of Alaska relating to prohibiting the establishment of a state tax without the approval of the voters of the state; and relating to the initiative process.

[SJR 7 was previously heard on 4/30/21.]

[1:34:12 PM](#)

MIKE BARNHILL, Deputy Commissioner, Department of Revenue, Juneau, Alaska, offered to answer committee members' questions.

[1:34:56 PM](#)

SENATOR KIEHL asked for the vision of democracy contained in this proposed change to the Alaska Constitution.

MR. BARNHILL answered that SJR 7 would create a constitutional symmetry between direct democracy and representative democracy when enacting new taxes.

SENATOR KIEHL suggested SJR 7 would tilt the field against new taxes rather than providing a consistent philosophy. He asked what would constitute a new tax under this language since the term is not defined. For example, he wondered if eliminating a tax break would be considered a new tax.

[1:37:13 PM](#)

MR. BARNHILL said he reviewed how the state defines constitutional terms. The Alaska Supreme Court first considers dictionary definitions, then legislative history and the content of legislative hearings. Therefore, new taxes are ones that the state does not currently impose. For example, it would be a new tax if the state imposed a new sales tax, a value-added tax, a gross-receipt tax, or a personal income tax.

[1:37:59 PM](#)

SENATOR KIEHL said the state exempts taxes on natural gas from Cook Inlet for use in state. He characterized it as a \$125 million investment in affordable power for the Anchorage Bowl and Kenai Peninsula. He asked whether this exemption was removed by passage of SJR 7 and if it would establish a new tax.

MR. BARNHILL recalled that question from last year. He said Mr. Milks responded by writing a letter that became part of the

legislative history. He recalled that deleting exemptions does not constitute a new tax.

1:39:22 PM

WILLIAM MILKS, Senior Assistant Attorney General, Legislation & Regulations Section, Civil Division, Department of Law, Juneau, Alaska, acknowledged that Mr. Barnhill just explained how terms are defined in the Alaska Constitution. He reviewed some recent Alaska Supreme Court cases that state what the court considers during its review. First, the court looks to the plain meaning and purpose of the provision. He explained it is an ordinary, reasonable, practical understanding of what the words mean. Ultimately, the voters approve the Alaska Constitution. Second, the court considers the intent of the framers. Further, the court looks at the legislative history, and as Mr. Barnhill mentioned, the court considers the dictionary definition. The court may consider other uses of the words, he said.

MR. MILKS said SJR 7 is somewhat different than the resolutions previously proposed. The specific language "establishes a state tax." He opined that removing an exemption is not establishing a new tax. However, legislators could always modify the language in the resolution. Currently, SJR 7 will establish a state tax, which would mean creating a new tax.

1:41:35 PM

MR. BARNHILL remarked that the letter he referenced by Mr. Milks was dated April 15, 2019, in response to Senator Hughes's question. He read:

I stated in hearing testimony the administration's intent is that changes to deductions, credits, and exemptions from an existing state tax would not be considered an increase in the rate of an existing state tax and thus would not require voter approval.

MR. BARNHILL related that Senator Kiehl's question was whether that would be construed as a new tax, not an increase in the tax rate. He offered his view that the response would be the same.

1:42:19 PM

SENATOR KIEHL remarked that removing an exemption from an existing tax could significantly change what is taxable. He asked if the corporate income tax that applies only to "C" corporations was extended to "B" or "S" corporations if it would establish a new tax.

MR. BARNHILL responded that he believes a Colorado case ruled on the matter. He acknowledged that just because the Colorado Supreme Court decided one way does not mean the Alaska courts would decide in the same way. He offered to research precedent in other states and report back to the committee.

[1:43:39 PM](#)

MR. MILKS restated that tools the court would use include a plain language interpretation, a dictionary definition, legislative history, constitutional convention history and discussions in committee. He said there would be a much fuller record if any dispute arose in court. He stated that he agrees with Mr. Barnhill's responses.

[1:45:07 PM](#)

SENATOR KIEHL asked how user fees would fall within the framework of establishing a new tax. He wondered if user fees would be treated differently and, if so, does it matter whether the fees cover more than the program cost.

MR. BARNHILL said the distinction between user fees and taxes is the subject of many tax cases in the Lower 48. However, the administration does not intend user fees to apply. He said a user fee is a charge assessed by a state agency to defray the cost of providing a specific service to the public, such as a driver's license. He said that a new user fee established to provide a service such as a driver's license would not require voter approval.

He pointed out that Senator Kiehl asked a more difficult question: what if the user fees recover more than the cost of providing the particular service. He related his understanding that the Colorado Supreme Court precedent addresses that issue. The same caveat would apply since it is not an Alaska Supreme Court decision. He said he was not sure it would be helpful to predict what the court would do. However, the administration intends not to characterize or interpret user fees established to defray the cost of providing a particular service as a tax requiring voter approval.

[1:47:50 PM](#)

SENATOR HUGHES related that if the voters establish a new tax through an initiative process, the legislature must meet to approve or reject it in joint session. If the legislature chose not to meet, whether the initiative would be considered rejected. If so, that decision could be made by a single

presiding officer refusing to meet in joint session. She referred to subsection (c) on page 2, lines 6 - 13, which read:

(c) A law enacted by the voters through the initiative process under Article XI that establishes a state tax shall not take effect unless the legislature, by resolution, approves the initiated law by a majority vote in joint session before the adjournment of the next regular session occurring after the lieutenant governor certifies the election returns. If approved by the legislature, the initiated law becomes effective ninety days after approval. If the legislature fails to approve the initiated law before the adjournment of the regular session, the initiated law is rejected and does not take effect.

1:49:01 PM

SENATOR HUGHES asked if one leader could cause the initiative to fail. She wondered if she was reading something into this.

MR. BARNHILL responded that he terms that as "a pocket form of veto." This language requires approval by a majority vote, failing that it would not take effect. However, there does not appear to be any prohibition against a pocket veto.

1:49:58 PM

MR. MILKS referred to page 2, lines 11-13 of SJR 7, which read:

If the legislature fails to approve the initiated law before the adjournment of the regular session, the initiated law is rejected and does not take effect.

MR. MILKS said this means the law is rejected if the legislature fails to act. The language is currently clear on the failure to act, he said. In terms of the question about the authority of a single presiding officer, the legislature's rules of procedure are the Uniform Rules, which the legislature could change.

1:51:04 PM

SENATOR MYERS recalled a recent Alaska Supreme Court decision related to the legislature not holding a joint session to confirm governor appointees to boards and commissions. He suggested the legislature should consider changing this language. The legislature could approve appointees by resolution in the normal legislative process for passing legislation rather than in joint session. He acknowledged that legislators would

not be on record if a presiding officer could theoretically slow the joint session down or block it.

MR. MILKS responded that it is a policy call for the legislature to consider.

SENATOR HUGHES offered her view that passing a resolution would open it up for multiple chairs to block the resolution.

[1:54:24 PM](#)

SENATOR MYERS recalled at the last hearing Senator Kiehl asked what SJR 7 would fix. He offered his view that SJR 7 does not attempt to fix policy or process, but rather it would address a lack of trust. He argued that the legislature does not hold the trust of the people. For one thing, two-thirds of the legislature changed in the last few elections. The referendum to repeal Senate Bill 21 was used to uphold Alaska's taxes on oil companies. He acknowledged that the initiative or referendum process is lengthy and often expensive. SJR 7 attempts to address voter distrust by allowing the voters to have the last say on any new taxes the legislature proposes. Without this final say, the legislature would have an incentive to tax the people least able to protest since it takes time, effort and funding to organize an initiative. He suggested that placing it on the ballot is a change for the better.

SENATOR HUGHES commented that the initiative and referendum process is already available to those wishing to initiate or repeal a tax. However, it would constrain the legislature because voters could reverse a tax passed by the legislature. The legislature can repeal a tax passed by initiative after a two-year delay. She viewed SJR 7 as affecting legislative actions more than voter initiatives.

[1:58:37 PM](#)

SENATOR HUGHES asked if the last legislature narrowed the process to broad-based taxes.

MR. BARNHILL recalled that the prior legislative committee held discussions but did not narrow the resolution.

[SJR 7 was held in committee.]

SJR 5-CONST. AM: APPROP LIMIT; BUDGET RESERVE

[1:59:36 PM](#)

CHAIR HOLLAND announced the consideration of SENATE JOINT RESOLUTION NO. 5, Proposing amendments to the Constitution of the State of Alaska relating to an appropriation limit; and relating to the budget reserve fund.

2:00:35 PM

NEIL STEININGER, Director, Office of Management & Budget, Office of the Governor, Juneau, Alaska, stated that OMB created a new graph in response to a request at the hearing on April 30, 2021. The question was about the current constitutional spending limit and setting its base at \$2.5 billion. OMB adjusted the graph to depict the spending limit in FY 1982 more clearly.

2:01:11 PM

CAROLINE SCHULTZ, Policy Analyst, Office of Management & Budget, Office of the Governor, Juneau, Alaska, responded to Senator Hughes's question in an earlier meeting about whether voters believed they were implementing a lower spending limit than the current spending levels. The answer is no. This was because the current constitutional spending limit in Article IX, Section 16, excludes capital appropriations. She referred to the graph on today's handout that added two more lines. She explained that the blue line represents the UGF Agency operations and UGF Agency + statewide [the purple line] represents the total operating budget. She said members could see that UGF Agency Operations and UGF Agency + Statewide fall well below the constitutional spending limit.

2:02:24 PM

SENATOR KIEHL said he was interested in the rationale behind limiting the budget to population growth or inflation. It seemed to him if the state experiences a growing economy that happens to coincide with inflation, it could hamstring the state's ability to meet the needs of an influx of population. He asked if it could be a combination of the two.

MR. STEININGER explained that the reason for selecting the "greater of population or inflation" was made by examining the existing constitutional spending limit. Compounding inflation and population together in the current spending limit results in a spending limit that grows much faster than is reasonable, compared to the growth and need for state services. In examining how to set the proper adjustor factor on a spending limit, it mustn't be so great that it will not limit spending. He said that that is the effect of compounding with the state's current spending limit. However, as Senator Kiehl alluded to, it adjusts and accounts for things that create pressure on state spending.

He stated that both population and inflation could create pressure on the cost of providing government services, one through the demand and the other through the cost of providing those services. However, compounding the two is not necessarily a perfect analogy for the pressure on state spending. He concluded that was the reason that the greater of the two was selected. It would ensure that the state could respond if significant inflation or a significant jump in population occurred. However, it would not create unconstrained growth.

2:05:14 PM

SENATOR KIEHL acknowledged the effects of compounding, such that the existing spending limit compounds from a fixed reference year. Regardless of what the legislature spends, it will rise. He asked the reason for the approach of the greater of one or the other factor when it also changes from a fixed reference year to a three-year average of actual expenditures. He asked if it would prevent massive compounding but still allow the state to deal with the actual needs.

2:05:58 PM

MR. STEININGER stated that one thing shown on the graph based on the ten-year plan is the difference without a fixed base using the three-year average. This graph shows the inherent difference in the spending decisions made in any given year, he said. There's a difference between whether the legislature continues to constrain spending, as shown based on the ten-year plan, or if the legislature chooses to maximize spending. Suppose the legislature decides to maximize spending using the three-year average. In that case, the legislature can still achieve unconstrained growth by using compounding factors. It allows the legislature to continue spending more each year, thereby driving up the three-year average. At that point, the legislature would still have the ability to achieve less constrained growth even though it's not using the fixed base. Using compounding allows the expenditure maximization scenario to be less constrained, as shown on the graph. It will be more aligned to the state's actual spending because of the three-year average. This also assumes that future legislatures and executive branches will try to maximize their expenditures. Although that does not necessarily pose a high risk, it is something to consider as the legislature calculates a spending cap in SJR 5.

2:07:45 PM

SENATOR KIEHL stated that he also did not think the risk was that high unless there was a genuine need for additional state services.

2:08:00 PM

SENATOR MYERS recalled at the previous hearing he agreed that the \$1 billion in federal COVID-19 funding qualified as money received from a non-state source for a specific purpose. The legislature will need to decide whether to use the extra billion of federal funding to backfill the deficit or use it for programs. For example, the governor has discussed providing relief for tourism businesses. If the state were to receive future windfall monies from outside the state's funding sources, it seems as though it would create a perverse incentive. It essentially translates to "what is beneficial in the short run is not beneficial in the long run."

MR. STEININGER acknowledged that the administration has been considering how to cope with that type of situation. He pointed out that the state routinely receives some discretionary federal revenues, but it typically represents a rounding error in the overall federal funding. These funds are not significant enough to take into consideration, he said. However, it should be considered since the state currently faces that situation. As SJR 5 is currently written, if the federal funding were entirely used to offset general fund expenditures, it would lower the three-year average, creating a perverse incentive in terms of how to allocate the federal funds.

2:12:17 PM

SENATOR HUGHES referred to the chart that shows the effects of the constitutional spending limit from FY 1982 to FY 2022. She said the legislature did not foresee that the spending limit would constrain spending but allow for astronomical increases in per capita spending. She wondered why the voters thought passing the constitutional amendment was the right thing to do. She asked if he had any background information on the ballot measure, including voting statistics on the measure.

MR. STEININGER deferred to Mr. Milks.

2:14:25 PM

WILLIAM MILKS, Senior Assistant Attorney General, Legislation & Regulations Section, Civil Division, Department of Law, Juneau, Alaska, explained that whenever a constitutional amendment is before the voters, it is included in the election pamphlet, which is sent to all the voters. The Division of Election's pamphlet will describe the proposed ballot measure. The legislative affairs agency prepares a summary of the changes proposed in the constitutional amendment. The pamphlet also

contains a statement in favor and a statement in opposition to the amendment. He did not paraphrase the 1982 constitutional amendment specifically, but the document explained why some residents wanted an appropriation limit. He opined the 1982 voter pamphlet would be the best source document.

2:16:21 PM

MR. MILKS said Senator Hughes posed a question at a previous hearing on SJR 5. She asked whether the language of the entire constitutional amendment is on the ballot that voters have in the voting booth. He answered no, it is not. Instead, the ballot contains an impartial summary of the constitutional amendment. The Division of Elections' polling place posts the entire constitutional amendment language. The Division of Elections' pamphlet mailed to each voter also contains the language of the constitutional amendment, a neutral summary, a statement in support and a statement in opposition to the amendment.

SENATOR HUGHES related her understanding that in 1982, the legislature was concerned about overspending. She surmised legislators must not have had projections. She stated she was just handed information on the November 1982 vote; the vote was 61 percent in favor and 31 percent in opposition to the constitutional amendment limiting increases in appropriations.

2:18:01 PM

CHAIR HOLLAND related his understanding that the Constitutional Budget Reserve (CBR) would become a nonissue once Art. IX, Secs. 17 (c) and 17 (d) are repealed and the spending cap is in place because the spending cap applies to all spending, including spending from the CBR. Thus, the language in Sec. 3 could be unnecessary. Further, the language in Sec. 2 may be unnecessary because without Secs. 17 (c) and 17 (d), there is no difference between monies in the CBR and monies in the general fund. He asked whether all of Art. IX, Sec. 17 should be removed, or if it should just maintain the supermajority vote for access.

MR. STEININGER responded that he would not necessarily agree that the CBR no longer becomes relevant. It would effectively state that certain revenues, as listed in Art. IX, Sec. 17 (a) will be deposited into a Rainy Day Account, which would be available for expenditures if ordinary revenues to the state are insufficient. The legislature could access the Rainy Day Account with a simple majority vote. He characterized the current CBR as a Rainy Day Account but with more stringent access provisions. SJR 5 will simplify the access provisions but retain a formal general fund Rainy Day Account.

[2:20:39 PM](#)

SENATOR MYERS expressed concern about repealing Art. IX, Secs. 17 (c) and 17 (d) because it was likely that the legislature would cease repayments to the CBR unless a windfall occurred. If the state encountered future hard times, it would enter any slumps without any reserves, he said.

[2:22:53 PM](#)

MR. STEININGER addressed the concern by explaining that the state's ability to repay the CBR is fairly constrained under the current revenue projections. The state does not anticipate future years with significant excess revenue to repay the CBR. However, that is not necessarily a reason to remove the repayment provision. He explained that SJR 5 would create a ceiling of true constraints on expenditures in the context of other structures. If the revenue projections are wrong and the state experiences increased revenue, an expenditure cap will limit the state's ability to spend that windfall. The state would need to save it or put it somewhere. This would provide constrained options for a revenue surplus, including depositing the funds into the CBR as a state savings account. If the CBR becomes a more formalized Rainy Day Savings Account for revenue downturns, it would be prudent to deposit funds into the CBR. Once the state resolves the other state fiscal problems, it may not be necessary to build the CBR to \$12 billion. Ultimately, whether to erase the CBR debt is a policy call for the legislature and the people to make.

[2:25:43 PM](#)

CHAIR HOLLAND asked if Mr. Milks had any comments.

MR. MILKS answered no.

[2:26:14 PM](#)

SENATOR KIEHL recalled that in 1982, when the current constitutional spending limit was adopted, the state had experienced an average of 9 percent inflation per year for eight years, four years of which exceeded 11 percent.

He said it is difficult to think of the CBR as a Rainy Day Account once the constitution removes the restricted access provision. In reviewing the language in SJR 5, he found several ways that the legislature could drain the CBR. He asked how the CBR under SJR 5 would differ from the Statutory Budget Reserve (SBR) since both can be accessed with a simple majority vote.

MR. STEININGER agreed that the SBR functioned similarly to how SJR 5 envisions the CBR from an expenditure side. He stated that the state structurally needs to have a financial tool such as the Rainy Day Account, with revenues dedicated to it, to repopulate itself. This account could be the CBR as drafted, repopulating the SBR, or the current option of using the Earnings Reserve Account. The state needs an account to use when revenues are low. SJR 5 would establish the CBR as that account, he said. When revenues are lacking, it will take a simple majority vote to access the Rainy Day Account. He would like to discuss any loopholes to identify if they are what the state intended or drafting errors that need to be closed up.

[2:29:19 PM](#)

SENATOR KIEHL referred to a Legislative Legal Memo dated April 30, 2021, that discusses the significant reduction of deposits to the CBR by deleting the word "directly." He offered his view that the Rainy Day Account will not function as one if the state significantly reduces funds deposited to the CBR, making it easy for the legislature to access with a simple majority vote. He noted that all proceeds of General Obligation (GO) Bond Debt would be added to the exemptions. He said he previously expressed concern about the administration's GO Bond proposal projects because many of the projects were appropriations for routine capital improvements. He expressed concern that this exemption would encourage maximizing debt, especially as revenues decline.

MR. STEININGER responded that it was not necessarily maximizing borrowing. He said the voters' consent through the ballot measure process inherent in GO Bonds, so it is exempted in SJR 5.

[2:31:46 PM](#)

CHAIR HOLLAND suggested allowing spending above the limit only on capital projects and in the same manner used for GO Bond proposals.

MR. STEININGER responded that was certainly something to consider when considering the current constitutional spending. He stated that SJR 5 is drafted to put all capital spending under the cap.

[2:32:30 PM](#)

SENATOR HUGHES asked the administration to provide a snapshot of the state's current condition, including the state's population, economy and operating budget spending compared to other states.

He acknowledged that Alaska has unique challenges and provides services in communities that local government would typically provide. She recalled some studies, including the number of state employees per capita. She offered her belief that the government sector doesn't produce any wealth, but the private sector supports it. She said every dollar drained from the private sector to support government is a dollar that cannot be used for the economy. The multiplier effect of a dollar in the private sector is greater than the multiplier effect of a dollar in the government sector. She said she would like documentation.

SENATOR HUGHES asked whether the legislature should consider addressing the spending cap in statutes and not in the Alaska Constitution.

MR. STEININGER answered that generally speaking, placing the spending limit in the Alaska Constitution creates a hard limit; the statutory spending cap likely could be exceeded by a legislative appropriation and would be less enforceable.

[2:36:28 PM](#)

MR. MILKS agreed with Mr. Steininger that a constitutional spending limit is binding and a statutory spending limit is not since the legislature retains the power of appropriation.

[2:37:03 PM](#)

SENATOR HUGHES maintained her belief that dollars that swirl around the state, such as government funds, do not provide any growth. The private sector dollars can draw money in from outside Alaska and strengthen Alaska's economy. She offered her belief that the only value of a statutory spending cap is that the constituents will react if the legislature exceeds it.

[2:37:55 PM](#)

CHAIR HOLLAND recalled Senator Kiehl raised the issue at the last hearing on SJR 5. He asked if narrowing the language "state savings account" to language "an appropriation to the budget reserve fund" or "appropriations to the state retirement trust fund" would address that issue. The term "state savings account" was broad and a subsequent legislature could create another state savings account not subject to the constitutional spending limit.

[2:38:44 PM](#)

MR. STEININGER responded that such an approach would provide more specificity. However, it is hard to predict future accounts that may fund future programs. For example, the Alaska Marine

Highway System Fund revenues are deposited into that fund and the legislature appropriates from the fund. It is counted as spending when an appropriation is made from the account. When the AMHS experiences a bad revenue year, the legislature appropriates additional monies into the fund. Monies being appropriated into the fund are not counted against the cap. Instead, those funds are merely considered deposits to a savings account. It is counted as spending once expenditures are made from the account. This raises the issue of whether the appropriation would be counted both times if it will only count when the fund is spent for services or when deposits are made. He explained that listing the accounts in the Alaska Constitution would limit the ability to use that type of financial tool for future programs.

MR. STEININGER said it would create a constraint the administration does not intend in SJR 5. He clarified that deposits to some accounts are counted, such as the Vaccine Assessment Account, which is capitalized with monies paid to the state and funds from the state to pay for purchasing vaccines. Monies deposited to the account count as spending because the Department of Health and Social Services (DHSS) can use those funds to make bulk purchases. When those purchases are made, the state does not count them as expenditures. Thus, there are two ways to address some of the accounts. It is generally counted when the funds are committed to a specific purpose and cannot be redirected. The AMHS Fund is available for general appropriation. When the monies are deposited to that account, they are not counted because the legislature has the authority to spend it elsewhere.

2:42:25 PM

SENATOR KIEHL remarked that he does not share Senator Hughes's view on private and public sector spending. Alaskans create businesses that innovate and generate efficiency, which creates economic growth. He disagreed that dollars circulating within Alaska do not create growth. Further, when companies and workers earn money in Alaska and take it to the Lower 48, it does not help Alaska's economy.

2:43:27 PM

SENATOR KIEHL offered that currently, there is very little connection between economic activity and support for the state's economy, except corporate income tax provides some help. If the state maintains this model, it will need additional state services when it experiences good economic and population growth. He related his understanding that one incentive will be

to devolve government services to other levels. SJR 5 will not limit total government spending, just what comes from the state treasury. For example, suppose the legislature decided it needed \$18 million of spending authority. In that case, it could give second-class boroughs police power and cut the entire Alaska State Trooper staff from the Fairbanks North Star Borough area. It would essentially shift the burden to the Fairbanks taxpayers. He asked if that would provide additional state spending.

[2:44:57 PM](#)

MR. STEININGER responded that if the legislature needed to generate additional room to meet a need, the legislature would need to weigh that against other state expenditures. It would require an offsetting reduction, either to the trooper staff, education, or other services. He explained that creating a constraint will limit government growth. If the state would like to add a new program, the legislature would need to find room within the spending cap. The intent is to limit new programs and constrain government growth. This is difficult to do as revenues decline, he said.

[2:45:59 PM](#)

SENATOR KIEHL expressed concern that SJR 5 does not institute a spending cap on government but instead it would cap the state's current spending.

[2:46:21 PM](#)

CHAIR HOLLAND offered his view that the inflation adjustment in SJR 5 is generous. Over three years, the cumulative change in inflation is about 7 to 9 percent allowable growth. That figure will be applied to the three-year average spending, normally about 2 to 3 percent below the prior year's spending. The current language allows budget growth by more than inflation. He asked whether the cumulative growth factor should be two years instead of three years.

[2:47:09 PM](#)

MR. STEININGER explained that he was interested in additional modeling using a different inflationary factor, as shown on a graph. He offered to report back to the committee using a different inflationary factor graph.

[SJR 5 was held in committee.]

[2:48:16 PM](#)

There being no further business to come before the committee,
Chair Holland adjourned the Senate Judiciary Standing Committee
meeting at 2:48 p.m.